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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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12 MARC OPPERMAN, *et al.*,
13 Plaintiffs,
14 v.
15 KONG TECHNOLOGIES, INC., *et al.*,
16 Defendants.
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Case No. 13-cv-00453-JST

**APP DEVELOPER DEFENDANTS'
OMNIBUS NON-OPPOSITION IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 25, 2017
Time: 2:00 p.m.
Judge: Honorable J. Tigar

This Document Relates to All Cases

1 Defendants Foodspotting LLC, Foursquare Labs, Inc., Gowalla, Inc., Instagram, LLC, Kik
2 Interactive Inc., Kong Technologies, Inc., Twitter, Inc., and Yelp Inc. (collectively, “App
3 Defendants”) hereby file this Non-Opposition in Support of Plaintiffs’ Motion for Preliminary
4 Approval of Class Action Settlement (“Motion”) (ECF No. 878) filed by plaintiffs.

5 While the App Defendants disagree with aspects of the Motion (for example, the strength
6 of Plaintiffs’ claims) the App Defendants do not oppose the relief sought in Plaintiffs’ Motion and
7 support the Court’s granting of the motion including to preliminarily approve the Settlement
8 Agreement, provisionally certify the class solely for purposes of the Settlement Agreement,
9 approve notice to the Settlement Class Members, and set a final approval schedule. Like
10 Plaintiffs, the App Defendants believe that the settlement is fair, adequate, and reasonable, and
11 that the Settlement Class is properly conditionally certified here under Federal Rule of Civil
12 Procedure 23. Importantly, as to the app defendants other than Kong Technologies, Inc.,
13 Plaintiffs’ motion seeks class certification for settlement purposes only, and those app defendants
14 reserve the right to oppose certification if the Settlement does not become Final, as provided for
15 in the Settlement Agreement.

16 As described in Plaintiffs’ Motion, the Settlement Agreement is the product of five years’
17 worth of protracted and highly adversarial litigation, together with extensive and complex
18 negotiations between and among the parties and their experienced and informed counsel. The
19 Honorable William J. Cahill (Ret.), from JAMS, was involved in those negotiations as a neutral
20 third-party mediator. The negotiations were complicated by the fact that they involved multiple
21 parties and multiple issues, and the Settlement reflects hard and careful negotiation of its terms by
22 each of the signatories.

23 The App Defendants have denied, and continue to deny, that they took any intentional or
24 unintentional act that harmed or damaged any Settlement Class Member. The Settlement is not
25 an admission by the App Defendants that any of the Released Claims have merit. Nevertheless,
26 the App Defendants believe the settlement is fair, adequate, and reasonable, and the Settlement
27 will provide benefits to the Settlement Class Members and end the Litigation.

28 For the reasons stated in Plaintiffs’ Motion and not opposed by the App Defendants, and

1 as described in the Settlement Agreement, the App Defendants support the Court's granting of the
2 Motion, including the request to preliminarily approve the Settlement Agreement, provisionally
3 certify the class solely for purposes of the Settlement Agreement, approve notice to the
4 Settlement Class Members, and set a final approval schedule.

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8 DATED: April 19, 2017

PERKINS COIE LLP

9 By: /s/ James G. Snell
10 James G. Snell

11 Attorneys for Defendant
12 TWITTER, INC.

13 DATED: April 19, 2017

DURIE TANGRIE LLP

14 By: /s/ Michael H. Page
15 Michael H. Page

16 Attorneys for Defendant
17 FOODSPOTTING LLC AND YELP INC.

18 DATED: April 19, 2017

MORRISON & FOERSTER LLP

19 By: /s/ Claudia Vetesi
20 Claudia Vetesi

21 Attorneys for Defendant
22 FOURSQUARE LABS, INC.

23 DATED: April 19, 2017

DHILLON LAW GROUP INC.

24 By: /s/ Harmeet K. Dhillon
25 Harmeet K. Dhillon

26 Attorneys for Defendant
27 GOWALLA, INC.

1 DATED: April 19, 2017

COOLEY LLP

2
3 By: /s/ Mazda Antia
Mazda Antia

4 Attorneys for Defendants
5 INSTAGRAM, LLC AND KIK
INTERACTIVE, INC.

6 DATED: April 19, 2017

FENWICK & WEST LLP

7
8 By: /s/ Tyler Newby
Tyler Newby

9 Attorneys for Defendant
10 KONG TECHNOLOGIES, INC.